

Section III:
AMENDMENT UNDER 37 CFR §1.121 to the
DRAWINGS

No amendments or changes to the Drawings are proposed.

Section IV:
AMENDMENT UNDER 37 CFR §1.121
REMARKS

Decision of the Board of Appeals

The technology subject of this patent application remains important to the operations of the assignee, and important for the economic competitiveness of the assignee. For these reasons, we ask for reconsideration of the rejections in the fairest manner possible.

In the Decision by the Board of Appeals, rejections of claims 1 - 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Published Patent Application 2002/0059131 to Goodwin (hereinafter "Goodwin") were sustained.

The Board did not officially enter a new ground for rejection. However, we find that the reasoning by the Board in supporting the Examiner's rejections provides valuable, additional insight as to the interpretation of Goodwin's disclosure.

The additional insight we see in the decision regards reselling of the products or services in the auctioning system. We have disclosed our invention as working within a four-tier, business-to-business auction system in which:

- 1st Tier: the *offeror* (e.g. original "seller") makes a list of items available for bids;
- 2nd Tier: a *trader* conveys a subset of this list to the trader's *brokers* in "offerings",
 the transaction being offered as a "*resale*" from the trader to the broker;
- 3rd Tier: a broker responds to the offerings with bids; and
- 4th Tier: the "winning" brokers then *resell (again)* the purchased products or
 services to one or more *end users*.

Figure 2 illustrates this arrangement. This arrangement is used in selling computer equipment, accessories, peripherals, and related services (e.g. warranties, upgrades, etc.) from a *manufacturer* (such as IBM) to *end users* (such as corporate users or retail store shoppers).

We noticed in the decision by the Board of Appeals, and in the final rejections from the Examiner, that Goodwin's system was held as enabling "reselling" of the products or materials sold in the auction. We agree, but we believe their reselling is significantly different than our four-tier reselling for a couple of reasons.

First, please consider the subject of Goodwin's system – they are auctioning *financial products*, and in particular *mortgage loans*. This business environment is quite different from manufacturing and selling computer-related goods and services, of course. Most notable of the differences is the regulatory environment of such offers and sales. For example, we are submitting herewith a supplemental IDS which provides an indication of regulatory limitations, both Federal and state, for such transactions, in which the sellers typically must be licensed or otherwise authorized to offer the financial products, and in which the buyers are not typically allowed to resell the products. The authors of this article, "Regulation of the U.S. secondary mortgage market", are Mark Kinsey, who holds a Ph.D. in economics, and Mr. H. James Schwing, an attorney. Both authors are officials with the Office of Federal Housing Enterprise Oversight. The publication date of the article is contemporary with the filing date of the present application, so it provides some level of extrinsic evidence of the actual environment for selling the types of financial products addressed by Goodwin's system.

Now, please notice that Goodwin's description of "reselling" is in keeping with this secondary mortgage environment. Paragraphs 0003, 0004, 0008, 0010, 0034, 0113, etc., refer to secondary loans and mortgages. We can find only two instances in Goodwin's disclosure regarding *reselling* of the loans, which are on page 9, Table 1, and in paragraph 0122.

In Goodwin's Table 1, Goodwin states:

"For example, this data can be original Financial product data or updates to Financial product data (if the Seller resells the Financial product)"

in the table entry regarding "Seller Upload Financial Product or Data". Please notice that in this situation, it is Goodwin's *seller*, not a *buyer* who is enabled to resell the financial product. This makes sense because in the regulated secondary mortgage market, only the seller would be presumed to be licensed to sell (or resell) a mortgage.

OK, that appears to be a significant difference - our system allows the trader (a first buyer) to resell to a broker, and the broker (a second buyer) to resell to an end user. This is because our system is offering products and services which are not restricted by law for resale, but which are governed by our reseller master agreement.

Now, let's check the second Goodwin reference to make sure this is not a short-sighted interpretation of Goodwin's process. At paragraph 0112, Goodwin states:

*[0122] In one embodiment, the data uploaded to the site is in PDF format files built from Microsoft Word and Microsoft Excel templates downloaded from the system 30. For example, this data can be original financial product data or updates to financial product data (**if the Seller 102 resells** the financial product).*

Yes, that seems to agree with the Table 1 disclosure that, for Goodwin, it is the *seller*, not the buyer, who is enabled to resell the product.

So, our amendment specifies our invention as integral to a four-tier auction arrangement between an offeror, traders, brokers, and end-users. But, would our approach have been an obvious variation of Goodwin's system? In other words, could Goodwin's approach be applied to two-tiers of our system at a time, in which the trader acts initially as a buyer in Goodwin's system, then later as a seller in Goodwin's system? Then, the broker would first act as a buyer, then as a seller, etc.

We don't believe it would have been an obvious variation to apply Goodwin's process this manner partly due to the regulatory issues which would have rendered Goodwin unsatisfactory for its intended purpose if modified in such a way, and partly because there is no indication that anyone else in the art besides our inventors were addressing the need to add guest participant capabilities to four-tier business-to-business arrangements such as ours.

Our amendment, therefore, combines the steps and limitations of a four-tier, business-to-business arrangement with certain improvements to the reseller master agreement and a guest profile to allow guest participation in the process. This is a useful tool to promote the process to new brokers, in order to allow them to see how the process works and to see the benefits of it. In turn, brokers who are impressed, will agree to a fully-entitled reseller master agreement to begin bidding on computer equipment being offered by the manufacturer.

It is with these fuller understandings, facilitated by the Examiner's reasons for rejection as supplemented by the Board of Appeals decision, and through closer reading of Goodwin that we make the attached amendment, submit the attached supplemental IDS, and request further examination.

The technology subject of this patent application remains important to the operations of the assignee, and important for the economic competitiveness of the assignee. For these reasons, we ask for reconsideration of the rejections in the fairest manner possible, and allowance of the claims as amended.

Respectfully,

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